

REMARKS

I. Introduction

Claims 1-18 are pending in the application. In the Office Action dated Jan. 22, 2008, the Examiner rejected claims 1-7, 9, 11-13, and 16 under 35 U.S.C. § 102(b) as being anticipated by U.S. Pat. No. 5,544,250 ("Urbanski"). Further, claims 8, 10, 14, and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Urbanski in view of U.S. Pat. No. 5,937,070 ("Todter"). Applicants request reconsideration in view of the following remarks.

II. Urbanski Does Not Render Claims 1 and 4 Unpatentable

Independent claims 1 and 4 recite received-speech clarifying means that adjusts a gain for a received-speech signal to be output by a speaker based on a level of background sound measured from an output signal from a microphone. The cited portions of Urbanski fail to teach this element.

Urbanski is directed to a noise suppression system and method therefore. As explained in Applicant's response to the Office Action dated May 3, 2007, Figure 2 and the portions of the disclosure of Urbanski that were cited by the Examiner teach adjusting a level of a signal based on noise that is detected in that same signal. Figure 2 and the portions of the disclosure of Urbanski that were cited by the Examiner do not teach adjusting a gain of a first signal (the received-speech signal to be output by a speaker) based on a level of background noise measured in a second distinct signal (the output signal from a microphone). Applicants note that when this argument was presented to the Examiner in response to the first Office Action, the Examiner admitted that "Urbanski fails to teach two signals, where one signal is the 'received speech signal' and the second signal being the 'background sound level'." (See Office Action dated Aug. 28, 2007, page 4).

In the Office Action, the Examiner asserts that "[f]or purposes of prior art, the proximity effect is construed to be both functionally equivalent and equally effective as noise produced from low frequency components picked up by the microphone in a changing environment, where the response of a system would be handled by an adaptive frequency response such as the adjustment of gain and reduction of noise."

(See Office Action dated Jan. 22, 2008, page 3). Applicants are unsure as to the meaning of the Examiner's assertion and respectfully request that the Examiner further explain the assertion.

Further, Applicants note that the Examiner has cited no support for the above-cited assertion. If the Examiner is attempting to take official notice that proximity effect is both functionally equivalent and equally effect as noise produced from low frequency components picked up by a microphone in a changing environment, Applicants respectfully request that the Examiner state that he is taking official notice. Additionally, Applicants respectfully submit that the Examiner has not established that the facts asserted to be well known are capable of instant and unquestionable demonstration as being well-known. (See MPEP § 2144.03). Accordingly, Applicants respectfully request that "the Examiner provide documentary evidence in the next Office Action if the rejection is to be maintained." (See MPEP § 2144.03). However, regardless of the validity of the assertion of the Examiner, Applicants respectfully submit that the assertion of the Examiner does not address the deficiency in Figure 2 and the cited portions of Urbanski of failing to teach adjusting a gain of a first signal based on a level of background noise measured in a second distinct signal.

Because Urbanski as contemplated by the Examiner fails to teach at least received-speech clarifying means that adjusts a gain for a received-speech signal to be output by a speaker based on a level of background sound measured from an output signal from a microphone, Urbanski necessarily does not anticipate independent claims 1 and 4, or any claim that depends on either claim 1 or claim 4.

III. The Proposed Combination Does Not Render Claim 8 Unpatentable

Independent claim 8 recites a received speech clarifying filter operable to adjust a gain for received speech to be output by a speaker based on a background sound level. In claim 8, the background sound level calculator calculates the background sound level from a signal output from a background sound microphone. Accordingly, claim 8 recites adjusting a gain of a first signal (the received-speech signal to be output by a speaker) based on background noise extracted from a distinct second signal (the

signal output from the background sound microphone). The combination of Urbanski and Todter as contemplated by the Examiner fails to teach this element.

In the proposed combination of Urbanski and Todter, the Examiner asserts that Urbanski teaches each of the above-recited elements of claim 8. Applicants respectfully disagree. Figure 2 and the portions of the disclosure of Urbanski that were cited by the Examiner teach adjusting a level of a signal based on noise that is detected in that same signal. Figure 2 and the portions of the disclosure of Urbanski that were cited by the Examiner do not teach adjusting a gain of a first signal (the received-speech signal to be output by a speaker) based on a level of background noise measured in a second distinct signal (the output signal from a microphone). Moreover, the Examiner has admitted that "Urbanski fails to teach two signals, wherein one signal is the 'received speech signal' and the second signal being the 'background sound level'." (See Office Action dated Aug. 28, 2007, page 4).

In the Office Action, the Examiner asserts that "[f]or purposes of prior art, the microphone not collecting the output from the speaker is construed to be both functionally equivalent and equally effective as a speech communication system that does not implement feedback from a speaker to a microphone (Fig. 1 item 1)." (See Office Action dated Jan. 22, 2008, page 6). Applicants note that the Examiner has cited no support for this assertion. If the Examiner is attempting to take official notice that a microphone not collecting the output from a speaker is both functionally equivalent and equally effective as a speech communication system that does not implement feedback from a speaker to a microphone, Applicants respectfully request that the Examiner state that he is taking official notice. Further, Applicants respectfully submit that the Examiner has not established that the facts asserted to be well known are capable of instant and unquestionable demonstration as being well-known. (See MPEP § 2144.03). Accordingly, Applicants respectfully request that "the Examiner provide documentary evidence in the next Office Action if the rejection is to be maintained." (See MPEP § 2144.03). However, regardless of the validity of the assertion of the Examiner, Applicants respectfully submit that that the assertion of the Examiner does not address of the deficiency in Figure 2 and the cited portions of Urbanski of failing to teach

adjusting a gain of a first signal based on background noise extracted from a distinct second signal.

Because Figure 2 and the portions of the disclosure of Urbanski that were cited by the Examiner do not teach a received speech clarifying filter operable to adjust a gain for received speech to be output by a speaker based on a background sound level, where a background sound level calculator calculates the background sound level from a signal output from a background sound microphone as asserted by the Examiner, the combination of Urbanski and Todter as contemplated by the Examiner necessarily does not render independent claim 8, or any claim that depends on claim 8, unpatentable.

IV. The Proposed Combination Does Not Render Claim 10 Unpatentable

Independent claim 10 recites received-speech clarifying means for adjusting a gain for received speech that is output from a speaker based on a background-sound level measured by a background sound level measurement means. In claim 10, the background sound level measurement means measures a background-sound level based on a level of an output from a background-sound microphone. Accordingly, claim 10 recites adjusting a gain of a first signal (the received speech that is output from a speaker) based a background-sound level from a distinct second signal (the signal output from the background-sound microphone). The combination of Urbanski and Todter as contemplated by the Examiner fails to teach this element.

In the proposed combination of Urbanski and Todter, the Examiner asserts that Urbanski teaches each of the above-recited elements of claim 10. Applicants respectfully disagree. Figure 2 and the portions of the disclosure of Urbanski that were cited by the Examiner teach adjusting a level of a signal based on noise that is detected in that same signal. Figure 2 and the portions of the disclosure of Urbanski that were cited by the Examiner do not teach adjusting a gain of a first signal (the received-speech signal to be output by a speaker) based on a level of background noise measured in a second distinct signal (the output signal from a microphone). Moreover, the Examiner has admitted that "Urbanski fails to teach two signals, wherein one signal is the 'received speech signal' and the second signal being the 'background sound level'," (See Office Action dated Aug. 28, 2007, page 4).

Because Figure 2 and the portions of the disclosure of Urbanski that were cited by the Examiner do not teach received-speech clarifying means for adjusting a gain for received speech that is output from a speaker based on a background-sound level measured by a background sound level measurement means, where the background sound level measurement means measures a background-sound level based on a level of an output from a background-sound microphone as asserted by the Examiner, the combination of Urbanski and Todter as contemplated by the Examiner necessarily does not render independent claim 10, or any claim that depends on claim 10, unpatentable.

V. The Proposed Combination Does Not Render Claim 14 Unpatentable

Independent claim 14 recites a received-speech clarifying section operable to adjust a gain for received speech to be outputted by a speaker based on a level of background sound measured by a background sound level measurement calculator. In claim 14, the background sound level measurement calculator measures the level of background sound based on the output signals from first and second background-sound microphones. Accordingly, claim 14 recites adjusting a gain of a first signal (the received speech to be outputted by a speaker) based on a background sound level from one or more other distinct signals (the signals output from the first and second background-sound microphones). The combination of Urbanski and Todter as contemplated by the Examiner fails to teach this element.

In the proposed combination of Urbanski and Todter, the Examiner asserts that Urbanski teaches the above-recited elements of claim 14. Applicants respectfully disagree. Figure 2 and the portions of the disclosure of Urbanski that were cited by the Examiner teach adjusting a level of a signal based on noise that is detected in that same signal. Figure 2 and the portions of the disclosure of Urbanski that were cited by the Examiner do not teach adjusting a gain of a first signal (the received-speech signal to be output by a speaker) based on a level of background noise measured in one or more other distinct signals (the signals output from the first and second background-sound microphones). Moreover, the Examiner has admitted that "Urbanski fails to teach two signals, wherein one signal is the 'received speech signal' and the second signal being the 'background sound level'," (See Office Action dated Aug. 28, 2007, page 4).

Because Figure 2 and the portions of the disclosure of Urbanski that were cited by the Examiner do not teach a received-speech clarifying section operable to adjust a gain for received speech to be outputted by a speaker based on a level of background sound measured by a background sound level measurement calculator, where the background sound level measurement calculator measures the level of background sound based on the output signals from first and second background-sound microphones as asserted by the Examiner, the combination of Urbanski and Todter as contemplated by the Examiner necessarily does not render independent claim 14, or any claim that depends on claim 14, unpatentable.

VI. Conclusion

In view of the foregoing remarks, Applicants submit that the pending claims are in condition for allowance. Reconsideration is therefore respectfully requested. If there are any questions concerning this Response, the Examiner is asked to phone the undersigned attorney at (312) 321-4200.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Scott W. Brim", is written over a horizontal line.

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